



## **JURISDICTION AND VENUE**

1. On September \_\_, 2004 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the Clerk of this Court. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to §§ 1107(a) and 1108. The Debtors have moved this Court for joint administration of these chapter 11 cases.

2. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of the Debtors' chapter 11 cases and this Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are Bankruptcy Code § 345.

## **FACTUAL BACKGROUND**

3. Facing its biggest challenges of all -- a sluggish industry and skyrocketing materials costs -- Citation and its affiliated companies have filed for chapter 11 bankruptcy in the U.S. Bankruptcy Court in Birmingham, Alabama. This action was taken to reorganize Citation's businesses into a profitable company that will continue to serve its customers. The Citation companies continue to operate their businesses and manage their properties as debtors in possession in accordance with the Bankruptcy Code.

4. Since its inception in 1974, Citation has forged a name for itself within the metal components industry by focusing on one overriding goal; total customer satisfaction. Citation has done this by acquiring capable leadership, loyal production workers and responsive suppliers.

5. Like every action Citation has taken over the years, chapter 11 was undertaken with customers in mind. The company is confident that a court-guided reorganization will give Citation the breathing room it needs to improve cash flow and emerge as a profitable company

serving its many customers. The Citation companies will continue to use sound management practices to operate their businesses and manage their properties as debtors in possession in accordance with the Bankruptcy Code.

6. Citation is a privately held Delaware corporation headquartered in the Birmingham, Alabama metropolitan area. Through its wholly-owned subsidiaries, Citation designs, develops and manufactures high quality cast, forged, and machined components for the capital and durable goods industries. The products Citation manufactures are made primarily from iron, steel and aluminum materials. Citation's attention to quality, delivery and cost have allowed it to grow its customer base over the years. The company has also grown its business through a series of acquisitions. The Citation companies now own and operate sixteen facilities located in Alabama, Indiana, Wisconsin, Michigan, Illinois, Texas, and North Carolina. The Citation companies employ approximately 5,100 employees, some of whom are unionized.

7. Citation manufactures products for several market segments including the automotive, heavy truck, construction, aerospace, agricultural and commercial industries. Citation produces aluminum and iron castings. Its steel forgings are used in a wide variety of applications including braking, steering, engine and drive train parts for passenger cars and light trucks; suspension and transmission parts for heavy trucks; ground engaging tools for construction equipment; parts for aircraft engines, landing gear and structural airframes; and thousands of other critical parts for capital and durable goods. Citation sells its castings and forgings to customers throughout the United States. Several of its largest customers are very large tier-one suppliers who make, assemble, and supply parts to automobile manufacturers.

8. Through the 1990s, Citation was a publicly traded company. In December 1999, Citation was taken private by an investment firm based in New York. A fund managed by the same firm continues to own virtually all of the shares of Citation's parent corporation.

9. Citation's cash flow challenges are typical of the industry today. All purchasers of steel have been suffering from the onslaught of record steel price increases. In the last 18 months, the price of steel scrap escalated from its traditional price of \$150 per ton to more than \$400 per ton. Other raw materials prices have also suffered dramatic price increases.

10. Ductile products account for half of Citation's sales. Steel scrap is the primary raw material used to make ductile products. Due to the unprecedented and unexpected price escalations for the purchase of steel scrap, Citation has found it difficult to maintain sufficient operating capital. Although some of Citation's customer relationships include provisions for sharing cost increases for steel scrap, Citation's relationships with several of its largest customers have no such provisions. Although Citation continues to work with customers to maintain positive, mutually beneficial relationships, Citation to date has been forced to bear the full burden of the increased price of steel scrap in many of its relationships. Citation's aluminum and other divisions have fared better, largely due to their ability to pass on the raw materials price increases.

11. In addition to the escalating price of steel scrap, Citation -- like numerous U.S. companies that provide employees with healthcare benefits -- has incurred heavy increases in the cost of health care for Citation's employees. This and an increase in the cost of utilities has further hampered Citation's cash flow.

12. Citation has a strong market share of the North American ductile iron parts industry, competing primarily with North American companies only. This is because the weight,

size, and shapes of the materials and product and heavy industry's requirements for just-in-time or staged delivery generally require the ductile iron foundries to be located on the same continent as the customers. Nonetheless, there is foreign competition, primarily from China and India.

13. The entire North American ductile iron parts industry finds itself in the same predicament as Citation. Some companies have recently exited this business altogether while a few competitors are better capitalized. Citation is determined to stay in business, and to continue serving the customers, employees and suppliers who have come to rely on Citation as a partner in success. Citation's management sees chapter 11 as a positive step to better position itself until the price of steel and other raw materials can reach an equilibrium within the industry and the true cost of materials can be passed through to the end user of the product.

14. As already mentioned, one of the most significant costs to Citation has been the unprecedented increase in the price of steel scrap. Combined with Citation's debt load, this has resulted in a shortage of cash flow. For the fiscal year ended September 28, 2003, Citation and its subsidiaries reported net sales of approximately \$640,000,000 and a net loss of approximately \$120,000,000.

15. Citation and its subsidiaries are indebted under a bank debt facility in the approximate amount of \$325,000,000. This indebtedness is secured by a first lien on virtually all of the Debtors' assets. Citation's parent corporation is separately indebted under a different debt facility to a different set of creditors in the approximate amount of \$140,000,000. Citation generally has trade debt of approximately \$60,000,000.

16. Citation is owed receivables from its customers that generally total around \$90,000,000. Citation maintains inventory that has a book value of approximately \$45,000,000.

Citation owns property, plants, and equipment of substantial value. Its greatest assets, however, are Citation's strong customer base and its many loyal employees.

17. As a part of its ongoing strategic review and assessment of their financial condition, Citation has determined to take advantage of its strong market share position, to strengthen the balance sheet, and to operate successfully in today's competitive environment, it must reduce its existing debt burden and increase operating efficiencies. Citation seeks protection under chapter 11 of the Bankruptcy Code to provide the necessary time to stabilize its finances and to develop and to implement a strategic plan to return its business to sustained profitability.

18. Citation filed bankruptcy with four primary goals in mind: (a) to reshape the Debtors' capital structure; (b) to improve cost efficiencies; (c) to maintain product manufacture and delivery; and (d) to negotiate with its key customers to pass on raw materials price increases. During its stay as a debtor-in-possession in chapter 11, Citation will continue to serve its customers by manufacturing high quality products at Citation's many locations throughout the United States. Once these four key goals are sufficiently met by the bankruptcy proceedings, Citation will emerge from this process as a strong, viable, and independent business positioned for increased competitiveness and sustained profitability.

#### **RELIEF REQUESTED**

19. By this Motion, the Debtors seek entry of an order waiving the deposit and investment requirements set forth in § 345(b) of the Bankruptcy Code.

#### **BASIS FOR RELIEF**

20. Section 345(a) of the Bankruptcy Code authorizes deposits or investments of money of a bankruptcy estate, such as cash, in a manner that will “yield the maximum reasonable net return on such money, taking into account the safety of such deposit or investment.” 11

U.S.C. § 345(a). For deposits or investments that are not “insured or guaranteed by the United States or by a department, agent or instrumentality of the United States or backed by the full faith and credit of the United States,” section 345(b) of the Bankruptcy Code provides that the estate must require from the entity with which the money is deposited or invested a bond in favor of the United States secured by the undertaking of an adequate corporate surety. In the alternative, the estate may require the entity to deposit securities of the kind specified in § 9303 of Title 31.<sup>2</sup>

21. A court may, however, relieve a debtor-in-possession of the restrictions that § 345(b) imposes for “cause.” The Debtors believe that “cause” exists to waive the investment and deposit restrictions under § 345(b) to the extent that the Debtors’ cash management deposits and investments do not comply. The Debtors believe that the banks at which they maintain bank accounts are financially stable banking institutions and are insured by the Federal Deposit Insurance Corporation (up to an applicable unit per account). All such deposits and investments are prudent and designed to yield the maximum reasonable net return on the funds invested, taking into account the safety of such deposits and investments.

22. Moreover, cause exists to waive the requirements of § 345(b) as the Debtors utilize a sophisticated and complex centralized cash management system (“Cash Management System”).<sup>3</sup> *See, e.g., In re Service Merchandise Co., Inc.*, 240 B.R. 894 (Bankr. M.D. Tenn. 1999). As part of the Cash Management System, the Debtors maintain approximately eighty-three (83) bank accounts located throughout the United States (“Bank Accounts”). Accordingly,

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<sup>2</sup> 31 U.S.C. § 9303 provides that where a person is required by law to give a surety bond, that person, in lieu of such surety, may obtain a government obligation.

<sup>3</sup> The makeup of the Debtors’ Cash Management System and the need to maintain this system in its pre-petition form is more fully detailed in the Debtors’ Motion for an Order Pursuant to 11 U.S.C. §§ 105 and 363 Authorizing (A) Continued Use of Existing Cash Management System, (B) Maintenance of Existing Bank Accounts, and (C) Continuation of Intercompany Transactions.

the Debtors rely upon multiple banks and bank accounts to handle the millions of dollars that flow through the Debtors' businesses on a daily basis. As noted in the legislative history to § 345, "[w]hile [the § 345 requirements are] wise in the case of a smaller debtor with limited funds that cannot afford a risky investment to be lost, it can work to needlessly handcuff larger, more sophisticated debtors." Courts when dealing with large debtors with sophisticated cash management systems have found that the "benefit to the debtor in waiving the § 345(b) requirements far outweighs any harm to the estate." *See, e.g., In re Service Merchandise*, 240 B.R. at 896.

23. Finally, the Debtors believe that their use of the Bank Accounts substantially conforms with the practices set forth in § 345. Nonetheless, out of an abundance of caution, to the extent that such deposits and investments do not conform with the approved practices identified in § 345(b), the Debtors seek to waive such requirements.

24. This Court has authorized the waiver of the deposit and investment requirements set forth in § 345(b) under similar circumstances. *In re Meadowcraft, Inc.*, Case No. 02-06910-TOM (Bankr. N.D. Ala. September 5, 2002); *In re Globe Manufacturing Corp.*, Case No. 01-70115-CMS (Bankr. N.D. Ala. January 30, 2001); *In re Gulf States Steel Inc. of Alabama*, Case No. 99-41958-JSS (Bankr. N.D. Ala. July 7, 1999). Additionally, courts in other districts have granted similar relief. *See, e.g., In re KMart, Corp.*, Case No. 02-2474 (Bankr. N.D. Ill. Jan. 23, 2002); *In re Diamond Brands Operating Corp.*, Case No. 01-1825 (Bankr. D. Del. May 30, 2001).

#### **NOTICE AND PRIOR MOTIONS**

25. Notice of this Motion has been provided to (1) the Office of the Bankruptcy Administrator for the United States Bankruptcy Court for the Northern District of Alabama, Southern Division; (2) counsel to JPMorgan Chase Bank as Administrative Agent for the



Debtors' prepetition lenders; (3) counsel to JPMorgan Chase Bank as Administrative Agent for the Debtors' proposed postpetition lenders; (4) the Debtors' twenty (20) largest unsecured creditors (on a consolidated basis); and (5) the District Director of the Internal Revenue Service for the Northern District of Alabama. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary or required.

26. No previous request for the relief sought herein has been made to this or any other court.

**WHEREFORE**, the Debtors request this Court enter an order substantially similar to the one attached hereto as Exhibit "A," waiving the requirements set forth in § 345(b) and providing for such other and further relief as is just and proper.

Dated this the \_\_\_\_ day of September 2004.

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Michael Leo Hall  
Robert B. Rubin  
Rita H. Dixon

Attorneys for Debtors and Debtors in Possession

**OF COUNSEL:**  
BURR & FORMAN LLP  
3100 SouthTrust Tower  
420 North 20th Street  
Birmingham, Alabama 35203  
Telephone: (205) 251-3000  
Facsimile: (205) 458-5100

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**IN RE:**

**CITATION CORPORATION, et al.,<sup>1</sup>**

**Debtors.**

)  
) **Chapter 11**  
)  
) **Case No. \_\_\_\_\_**  
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**ORDER PURSUANT TO 11 U.S.C. § 345 AUTHORIZING  
THE WAIVER OF DEPOSIT AND INVESTMENT REQUIREMENTS**

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This matter came to be heard upon the motion (the "Motion") of Citation Corporation ("Citation"), its holding company, and certain of its direct and indirect subsidiaries (the "Subsidiaries"), as debtors and debtors in possession (collectively, the "Debtors"), for authorization pursuant to § 345 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code") to waive deposit and investment requirements. Upon consideration of the Affidavit of Charles P. Bloome in Support Chapter 11 Petitions and First Day Orders; the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; due notice of the Motion having been provided to (1) the Office of the Bankruptcy Administrator for the United States Bankruptcy Court for the Northern

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<sup>1</sup> In addition to the Citation Corporation, the Debtors include the following entities: (i) Citation Holding Company, (ii) Berlin Foundry Corporation, (iii) Bohn Aluminum, Inc., (iv) Castwell Products, Inc., (v) Citation Precision, Inc., (vi) HI-TECH, Inc., (vii) Iroquois Foundry Corporation, (viii) ISW Texas Corporation, (ix) Mansfield Foundry Corporation, (x) OBI Liquidating Corp., (xi) Texas Steel Corporation, (xii) TSC Texas Corporation, (xiii) Citation Aluminum, LLC, (xiv) Citation Castings, LLC, (xv) Citation Grand Rapids, LLC, (xvi) Citation Lake Zurich, LLC, (xvii) Citation Michigan, LLC, (xiii) Citation Wisconsin Forging, LLC, (xix) Citation Wisconsin, LLC, (xx) ITM Holding Co., LLC, (xxi) Interstate Southwest, Ltd., (xxii) Texas Foundries Ltd., and (xxiii) MFC Liquidating Company, Ltd.

District of Alabama, Southern Division; (2) counsel to JPMorgan Chase Bank as Administrative Agent for the Debtors' prepetition lenders; (3) counsel to JPMorgan Chase Bank as Administrative Agent for the Debtors' proposed postpetition lenders; (4) the Debtors' twenty (20) largest unsecured creditors (on a consolidated basis); and (5) the District Director of the Internal Revenue Service for the Northern District of Alabama; and it appearing that no other or further notice need be provided; the Court having determined that the relief sought in the Motion is in the best interests of the Debtors, their creditors, and all parties in interest; upon the Motion and all of the proceedings before this Court; and after due deliberation and sufficient cause appearing therefore, it is hereby

**ORDERED** that the Motion is **GRANTED** in its entirety; and it is further

**ORDERED** that, as this Court finds cause to exist for waiving the deposit and investment requirements set forth in § 345(b) of the Bankruptcy Code, the obligation to comply with § 345(b) is hereby waived.

Dated this the \_\_\_\_ day of September 2004.

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**United States Bankruptcy Judge**